

Austin Texas

Ordinance NO. 810319-M, Special Requirements for Site Development in Water Quality Related Environmentally Sensitive Areas

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General Ordinance

Adopted: 1981

CITY OF AUSTIN, TEXAS

ORDINANCE NO. 810319-M

AN ORDINANCE ADDING CHAPTER 29A, ARTICLE I TO THE CODE OF THE CITY OF AUSTIN: DECLARING CERTAIN FINDINGS OF FACT; PROVIDING STANDARDS FOR THE DEVELOPMENT OF LAND LOCATED WITHIN THE AQUIFER-RELATED WATERSHED OF WILLIAMSON CREED; SUSPENDING THE RULE REQUIRING THAT ORDINANCES BE READ ON THREE SEPARATE DAYS; DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

PART 1. The Code of the City of Austin of 1967 is amended by adding a Chapter 29A, Article I to read as follows:

CHAPTER 29A

SPECIAL REQUIREMENTS FOR SITE DEVELOPMENT IN WATER QUALITY RELATED ENVIRONMENTALLY SENSITIVE AREAS

ARTICLE I. AQUIFER-RELATED WILLIAMSON CREED WATERSHED

Division 101. General Provisions

Sec. 101.1 Findings and Objectives

(a) The City Council of the City of Austin, Texas, hereby makes the following findings:

The Edwards Aquifer contributes to the domestic water supply of the City of Austin; and,

The City Council of the City of Austin, Texas, is the trustee of the natural environment of Barton spring , the Edward aquifer, and the Williamson Creed Watershed for futures generations of citizens of Austin and its environs; and

Barton Springs, fed by the Edwards Aquifer, provide significant and irreplaceable recreational opportunities to the citizens of Austin and its environs; and,

Development activities in the Aquifer-related Williamson Creed Watershed can result in damage to the natural environment of, the recreational qualities of, and the quality of the water in, the

Edwards Aquifer and Barton Spring; and,
The Williamson Creek Watershed is facing rapid development; and,

The continued economic growth of Austin is dependent on a pleasing natural environment, adequate quantity and quality supplies of water, affordable housing and recreational opportunities in close proximity to Austin; and,

The Edwards Aquifer, Barton Springs and the Aquifer-related Williamson Creek Watershed must be protected in order to preserve the health, safety and welfare of the citizens of Austin and its environs; and,

It appears to the City Council of the City of Austin that development in those portions of the watersheds of Williamson Creek which are within the Edwards Aquifer Recharge Zone or the Edwards Aquifer Contributing Recharge Zone may adversely affect the Edwards Aquifer; and,

The City Council of the City of Austin is desirous of adopting appropriate development rules and regulations for the purpose of protecting the Edwards Aquifer.

Sec. 101.2 Application of Article

(a) This article sets out special requirements for the development of land located in the Aquifer-related Williamson Creek Watershed, as defined herein. A person wishing to develop land in this area must comply with both these special requirements and with the applicable requirements, insofar as they do not conflict with this article, in Chapter 20 of this Code.

(b) No development shall be undertaken on any land, tract, parcel, or lot within the Aquifer-related Williamson Creek Watershed until a site development permit for said development has been obtained from the Director of Public Works. This requirement shall not apply to any single-family or duplex residential structures or appurtenance thereto where one such structure is built per legal lot or to a development within a recorded subdivision which was finally approved or finally disapproved by the Planning Commission prior to December 18, 1980.

In case of conflict between the requirements of this article and those of Chapter 29 or some other ordinance, the requirements of this article govern.

(d) The Director of Public Works, in cooperation with the directors of Environmental Resource Management and Planning, shall design and administer a system, including necessary forms, that coordinates the requirements of this article and Chapters 29, 41 and 41A, minimizes duplication of requirements and conflict between them, and facilitates the expeditious processing of site development applications.

(e) Any project that includes only development that is permitted under Chapter 41A shall be exempt from the requirements of this article. However, any additional development that is not specifically included in a Chapter 41A permit shall comply with the provisions of this article.

Sec. 101.3 Burden of Proof

An applicant for a site development permit under this article must establish that his/her plan complies with the requirements of this article and with the applicable requirements of Chapter 29 of this Code.

Sec. 101.4 Definitions

(a) The definitions in Chapter 29 of this Code also apply to this article, insofar as they do not conflict with the definitions contained herein.

(b) In this article the following special terms have the following meanings:

"Aquifer-Related Williamson Creek Watershed" - All land area in the Williamson Creek watershed that is within the Edwards Aquifer Recharge Zone or that naturally drains to, or is otherwise located upstream from, the Recharge Zone. The approximate boundaries of the Aquifer-Related Williamson Creek Watershed are depicted on a map attached to this ordinance as Exhibit A. Copies of the map are available for inspection at the offices of the City Clerk, Planning Department, Public Works, Environmental Resource Management and the City/ County Health Department. All questions concerning the exact boundary shall be determined by the Director of Public Works.

"Centerline of a Waterway" - The centerline of the waterway refers to existing topographic ally defined channels. If not readily discernible, the centerline shall be determined by (1st) the low flow line, or (2nd) the centerline of the 2-year flood plain.

"Commercial Lot" - Any lot not to be used as single or two-family residential, recreational or open space.

"Critical Water Quality Zone" - Lands and waters as defined in Sections 103.3(a) and 103.3(b).

"Edwards Aquifer" - The water-bearing substrata also known as the Edwards and Associated Limestones Aquifer. It includes the following geological formations: Comanche Peak, Edwards, Kiamichi and Georgetown.

"Edwards Aquifer Recharge Zone" - The interim boundaries of the recharge zones shall encompass all land over the Edwards Aquifer recharging the same, as determined by the outcrop

of the geologic units comprising the Edwards Aquifer, including such areas overlain with quaternary terrace deposits. (This zone is show in Exhibit A.) Permanent boundaries may be determined at a later date as part of a more comprehensive delineation of the entire recharge zone.

"Impervious Cover" - Roads, parking areas, buildings and other impermeable construction covering the natural land surface; this shall include, but not be limited to, all streets and pavement within the project boundaries.

"Intermediate Waterway" - Any natural channel for surface water drainage that drains an area greater than 320 acres but less than 640 acres under predeveloped conditions.

"Major Waterway" - Any natural channel for surface water drainage that drains 640 acres or more under predeveloped conditions.

"Minor Waterway" - Any natural channel for surface water drainage that drains an area greater than 63 acres but less than 320 acres under predeveloped conditions.

"Overland Flow" - Stormwater runoff that is not confined by any natural or man-made channel such as a creek, drainage ditch, storm sewer, or the like.

"Residence Time" - The average residence time of a basin is equal to the volume of the basin divided by the average rater of outflow.

Division 102. Site Development Plan

Sec. 102.1 Site Development Permit Required

No development shall be undertaken on any land, tract, parcel, or lot which is within the Aquifer-related Williamson Creek Watershed until a site development permit is issued by the Director of Public Works to the owner of such property; provided, that the requirements of this article shall not apply to the construction of single-family or duplex residential structures or appurtenances thereto where only one such structure is built per legal lot; and provided further, that no waterway development permit is required where a site development permit has been issued for an area within the city limits where all requirements of sections 29-1 through 29-3.7 are met.

Sec. 102.2 Application for Site Development Permits; Contents

Application for a site development permit required under Section 29A-102.1 shall be submitted to the Director of Public Works and shall be accompanied by a site development plan. The application and site development plan shall contain the following information unless the

Director of Public Works determines that due to the scope and nature of the proposed development some of the information is unnecessary:

(a) The date, scale, north point and key plan showing the location of the tract on which the development is to take place.

(b) The existing boundary lines and acreage of the tract on which the development is to take place, and the common boundary lines and names of the owners of adjacent properties.

Identification of all Critical Water Quality Zones and all such areas with restrictions required by this article.

(d) A detailed erosion-sedimentation control plan and construction sequencing plan required by Section 103.2.

(e) A detailed drainage plan and street layout that comply with the requirements of this article.

(f) A showing of compliance with the applicable requirements of this article for control strategies.

(g) A slope map, draw to a scale of one hundred feet to one inch, or in an appropriate scale as determined by the Director of Public Works. The slope map should display, according to the best information available, topographic information and features (including, but not limited to, faults and fractures along waterways and sink holes) the one hundred year and twenty-five year flood plains, the slope classes, and the boundaries of the proposed development. The slope map shall separate the proposed development into three slope classes of (1) slopes greater than 20 percent, (2) slopes of ten percent to twenty percent, (3) slopes less than ten percent gradient; and the map shall represent each class with a distinct color or coding.

(h) The location , type of use, and total percentage of proposed and existing impervious cover on the site for each slope category, in conformance with Sec. 104.2.

(I) Location of all temporary and permanent runoff detention basins, constructed and altered waterways and other physical facilities to be installed to comply with the terms of this article.

(j) Final plans for wastewater line installation shall be submitted with the site development plan and shall include the use of minimum construction corridor widths, minimum use of blasting that might disturb subsurface faults and fractures, and the use of environmental protection measures and vegetative restoration as quickly and thoroughly as possible.

(k) Special notes or attachments as may be required by other sections of this article.

Sec. 102.3 Certification by a Registered Professional Engineer

No plans and specifications called for in this article shall be accepted, reviewed, or approved by the Director of Public Works unless accompanied by the certification of a Registered Texas Professional Engineer that (1) the development plan is complete, (2) the technical data is accurate, and (3) the requirements of this article are met.

Division 103. Control Strategies -- Minimum Level of Performance

Sec. 103.1 Special Controls Required

In addition to satisfying the requirements of Chapter 29 of this Code, all developments of land within the Aquifer-related Williamson Creek Watershed, as specified in Section 101.2 of this section, shall comply with the provisions of this division.

Sec. 103.2 Construction Sequencing and Erosion Controls

(a) A comprehensive and detailed erosion and sedimentation control plan and report shall be submitted with the application. The report shall specify maintenance of controls. All items noted in the erosion control and construction sequencing plans shall also be included in the final construction plans. A copy of the report and plan shall be made available for the City of Austin Department of Public Works and 48 hours notice shall be given to same before actual construction begins.

(1) The report shall include the following items:

a. Construction sequencing as it relates to placement, maintenance, removal of temporary erosion controls, and restoration measures. The sequencing plan schedules these items in the overall scheme of development.

B. A list of such erosion controls and maintenance thereof.

c . Slope stabilization techniques to be employed.

d. Restoration plans including vegetative types and acceptability note for the City.

(2) The erosion control and construction sequencing plan shall include the following items:

a. Location of temporary erosion controls with maintenance note. The plan shall show the physical details of the controls.

b. A construction sequencing list, including the timing of the use of various controls in relation to steps in the construction .

c . Restoration techniques and acceptability note.

(b) The development shall comply with the erosion control and restoration measures in the City of Austin Erosion and Sedimentation Control Manual, as approved by City Council. Until the time that such controls are adopted by City Council the interim guidelines shall be the Soil Conservation Service manual titled "Erosion and Sediment Control Guidelines for Developing Areas in Texas." In both cases, the final judgement on the erosion controls and construction sequencing shall be made jointly by the Director of Public Works and the Director of the Office of Environmental Resource Management, and shall be made within ten days of the filing of the plan. The provisions of Section 105.1 shall apply.

After two days written notice to the person holding the site development permit, modifications from the approved erosion control and construction sequencing plans may be made in the field if the City Inspector deems the controls or sequencing inappropriate or inadequate and has confirmed his/her findings with the Director of Public Works and the Director of the Office of Environmental Resource Management, and has their written approval.

(d) The clearing of land shall conform to the following criteria:

(1) No clearing or rough cutting shall be permitted prior to the issuance of a site development permit by the Director of Public Works. Limited clearing and rough cutting for soil testing and surveying may be allowed with a permit from the Public Works Department.

(2) No clearing or rough cutting for purposes other than paragraph (1) above and construction of temporary erosion and sedimentation controls as per approved plans shall be permitted until these control s are in place.

(3) Clearing for the temporary storage of spoil or construction equipment, or for the permanent disposal of fill material or spoils, shall be so designated on the site plan, unless he provides erosion and sedimentation controls and the continuing maintenance thereof acceptable to the Director of Public Works.

(4) Vegetation within the Critical Water Quality Zone shall not be disturbed except for purposes consistent with development activity permitted by Section 103.3.

(5) If an applicant does not comply fully with his approved construction sequencing and erosion control plan, the Director of Public Works shall notify him in writing that the City may correct and revegetate the disturbed area at his expense unless he does so within 60 days after the date on the notice, or unless he provides erosion and sedimentation controls and the continuing maintenance thereof acceptable to the Department of Public Works.

Sec. 103.3 Critical Water Quality Zone

(a) Critical Water Quality Zones shall be established along all creeks and tributaries with drainage basins greater than 64 acres in size. The zone line shall be delineated parallel to each such creek or tributary according to the size of the drainage basin:

(1) For Minor waterways, the zone line shall be defined by the limits of the 100-year flood plain, provided that it shall never extend beyond 100 feet on each side from the centerline of the waterway.

(2) For Intermediate waterways, the zone line shall be defined by the 100-year flood plain, provided that it shall never be located greater than 200 feet nor less than 100 feet on each side from the centerline of the waterway.

(3) For Major waterways, the zone line shall be defined by the 100-year flood plain, provided that it shall never be located greater than 400 feet nor less than 200 feet on each side from the centerline of the waterway.

(b) The flood plain delineation shall be based on a channel in its unaltered state, and shall assume developed watershed conditions.

The Critical Water Quality Zone shall remain free of all construction activity, development and alterations except that the following may be permitted:

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(1) Arterial, collector and residential street crossing only as provided below:

a. Major waterways may be crossed by arterial streets that are identified in the City of Austin Roadway Plan, as approved by City Council.

b. Intermediate waterways may be crossed by arterial and collector streets, provided, however, that no collector street crossing shall be within one mile of any other crossing of a

collector street or arterial street on the same waterway.

c . Minor waterways may be crossed by arterial and collector streets, provided, however, that no collector street crossing shall be within 2000 feet of any other crossing of a collector street or arterial street on the same waterway.

d . Minor waterways may be crossed by a residential street only with a variance approved by the Planning Commission.

e . The Planning Commission may vary these requirements prior to site plan approval after receiving reports from the Directors of Public Works, Urban Transportation and Environmental Resource Management.

(2) Utilities as provided by Sections (d) and (e) below.

(3) Fences that do not obstruct flood flows.

(4) Public and private parks and open space, with development in the parks and open space limited to trails and facilities (other than stables and corrals for animals) for hiking, jogging, non-motorized biking, and nature walks.

(5) Water Quality Detention basins as per Sec. 104.1(d).

(d) All utilities other than wastewater shall be located outside the Critical Water Quality Zone, except for crossings, and shall comply with the provisions of the Utility Assignment Policy.

(e) Wastewater trunk lines and lateral lines shall be located out of the Critical Water Quality Zone whenever possible, except for crossings. At the time of site development plan review, the Director of Environmental Resource Management shall make a report to the Director of Public Works on any significant environmental impact and possible alternatives related to wastewater line locations in the Critical Water Quality Zone. In no case shall any wastewater line be located less than 100 feet from the centerline of a major waterway or 50 feet from the centerline of an intermediate waterway or 25 feet from the

centerline of a minor waterway unless approved by the Director of Public Works upon consideration, of reports by the Directors of Environmental Resource Management and Water and Wastewater, and the applicant has shown that installation outside of this zone is physically prohibitive. Connections to wastewater lines that have already been approved by the City do not require additional City approval under this section.

(a) Purpose. Natural drainage patterns must be preserved whenever possible and the amount of impervious cover limited to prevent erosion and attenuate the harm of contaminants collected and transported by stormwater. Open surface drainage through grass-lined swales shall be preferred. Drainage objectives can best be accomplished by avoiding the use of streets and street rights-of-way as the central drainage network whenever practical. Drainage swales conveying stormwater runoff from developed areas shall be located to avoid sink holes, faults and fractures to the greatest extent practicable.

(b) Construction of enclosed storm sewers and impervious channel linings shall be permitted only when the Director of Public Works, on the basis of competent engineering evidence, concludes that such storm sewers or impervious linings are the only justifiable option available. In the event that stormwater drainage systems and/or culverts are necessary, such systems shall be designed to mitigate their impact on water quality through the use of approved control strategies to control sediment and dissipate energy and through the use of multiple smaller outlets whenever practical and by locating discharges to maximize overland flow.

Sec. 103.5 Velocity Attenuation and Surface Drainage Channels

(a) All drainage channels that are to be constructed, or that are to be altered for drainage purposes or for purposes other than street and utility crossings, shall conform to the criteria of this section.

(b) Requirements for design:

(1) Surface drainage channels shall be designed to minimize potential erosion and to maximize the bottom width to flow depth ratio:

a. Channel cross-sections shall be trapezoidal in configuration.

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b. Side slopes of channels shall be no steeper than 4 horizontal to 1 vertical.

c. For a 6-month design storm assuming wet antecedent conditions, channel bottom flow depth shall not exceed four inches and design flow velocity shall be 2.5 feet per second.

(d) All constructed and altered drainage channels shall be stabilized and vegetated immediately after final grading.

(e) The Director of Public Works may allow exceptions to the design flow velocities or depths in the following situations in conformance with the purpose of Section 103.4:

(1) On lands with greater than 15% slope, or less than 2% slope.
Provided that the design flow velocity shall never be greater than 3 feet per second.

(2) In limited transitional channel sections (such as culverts, culvert entries and exits, drop sections, sharp bends, and water quality basin entries).

Sec. 103.6 Wastewater Collection and Disposal

(a) Organized Sewer Systems. All construction of sewer systems within the Edwards Aquifer Recharge Zone shall comply with the special standards of Sec. VII-8 of the City of Austin manual, "Standard Specifications for Water and Wastewater Utility Construction."

(b) Individual Disposal Systems. The minimum size of all lots not served by organized wastewater collection and disposal systems shall be at least one-acre, exclusive of all land within a 25-year flood plain or of a slope greater than 17% gradient. Unsewered lots overlying the Aquifer Recharge Zone shall use alternative sewage disposal systems that must be lined to prevent any infiltration to the aquifer and shall be installed in accordance with Ordinance 720928-A, as amended.

Sec. 103. 7 Street Standards

(a) Low density alternative urban street standards, as provided by Ordinance No. 800207-J establishing sections 41-38.1 through 41-38.5 in the Code of the City of Austin may be used in the Aquifer-related Williamson Creek Watershed. Drainage from the streets shall comply with Sections 103.4 and 103.5 of this Article. Curb cuts for the purpose of overland flow and velocity attenuation and surface drainage channels shall be encouraged.

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(b) All driveways shall be designed such that drainage flow from a 25-year storm shall never exceed a depth of 12 inches on any portion of the driveway.

Division 104 Additional Control Strategies

Sec. 104.1 Detention, Sedimentation and Filtration for Water Quality Control

(a) All developments of land within the Aquifer-related Williamson Creek Watershed with projected impervious cover exceeding 18 percent shall comply with the provisions of this division in addition to all the control strategies of Division 103 and in addition to satisfying the requirements of Chapter 29 of this Code.

(b) Water quality Detention-Sedimentation basins shall be situated and constructed to capture and hold the first 0.5 inch of drainage from streets, parking areas and other areas developed under this article.

(1) The basins shall be designed to contain the first 0.5 inch of runoff from all areas that drain into them from the site.

(2) The basins and drainage into the basins shall be designed to capture and isolate the first flush runoff from the project. All subsequent runoff in excess of the design capacity of the basins shall bypass the basins and remain segregated from the contained runoff waters in a peak shaving basin up to the capacity specified in the Drainage Criteria Manual.

(3) The design of all Water Quality Basins shall allow an average residence time of 24 hours for the first half inch of runoff.

(4) All basins located in the aquifer recharge zone shall have impervious liners to prevent seepage to groundwater.

(5) Input to and release from detention basins shall utilize grass-lined swales and/or overland flow dispersion measures in conformance with sections 103.4 and 103.5 above.

Water Quality Filtration.

(1) Sedimentation basins detaining runoff drainage from commercial areas and areas where the projected impervious cover exceeds 25 percent shall, in addition to the other requirements of this section, release all water through a filter media.

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(2) A filtration-sedimentation basin shall be required to serve each commercial lot, provided that adjacent commercial lots may jointly use such basin. Provided that they shall be situated and constructed to capture the first 0.5 inch of runoff.

(d) No portion of a water quality detention basin shall be located within 200 feet from the centerline of an existing channel of a major waterway nor within 50 feet from the centerline of an intermediate waterway.

(e) Limited blasting shall be permitted for the excavation and construction of detention basins located within Critical Water Quality Zones in the aquifer recharge zone.

(f) After receiving reports from the Directors of Public Works and Environmental Resource Management, the Planning Commission may grant variances from the terms of Section 104.1(d) above for special circumstances where topography dictates a lesser setback.

(g) No basins in the recharge zone shall allow direct infiltration to groundwater.

Sec. 104.2 Maximum Development Intensity

(a) The projected impervious cover on any single commercial lot shall not exceed 40% for those portions within the following areas:

(1) Within 200 feet of the Critical Water Quality Zone of a major waterway.

(2) Within 100 feet of the Critical Water Quality Zone of an intermediate waterway.

(b) No commercial development shall occur within 100 feet of the centerline of a minor waterway.

Unless the provisions of (a) above, are more restrictive, no commercial development shall exceed 65% cover on slopes of 10% to 20% gradient, nor 25% on slopes greater than 20% gradient provided, however, that no multi-family residential development shall exceed 65% impervious cover on slopes of 0% to 20% gradient, nor 25% on slopes greater than 20% gradient.

(d) Detention basins, swales and other conveyances for drainage shall not be calculated as impervious cover.

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Sec. 104.3 Street Improvement Projects/Maintenance

(a) Any street project that is to be constructed entirely on public right-of-way, is designed to provide adequate service to approved development, has been identified for exemption and discussed at public hearings, and has been approved by the City Council may be exempt from the requirements of this division and Sec. 29-55.3 of this code.

(b) Street maintenance projects that do not increase the impervious cover to beyond that of the original street shall be exempt from the provisions of this article.

Sec. 104.4 Limitations on Pollutants

(a) No permanent waste disposal sites for spoils or organic, chemical or toxic materials shall be allowed in the Edwards Aquifer related area of the Williamson Creek watershed.

(b) Facilities used for the underground storage of hydrocarbon products, and other toxic chemicals and hazardous materials (as designated by the Water Quality Review Board) shall be of double wall construction. In addition, methods for detecting leaks in the wall of the storage facility shall be included in the facility's design and construction .

Facilities used for the above-ground storage of hydrocarbon products, and other toxic chemicals and hazardous materials (as designated by the Water Quality Review Board) shall be constructed only within controlled drainage areas sized to capture any and all spillage that may result from ruptures or leakage from the facilities or appurtenances thereto. The

controlled drainage area shall be constructed of material that is impervious to the product being stored, leaked or spilled. Any and all spillage from such storage facilities and associated uses at the site shall be disposed of outside of the Edwards Aquifer related area of the Williamson Creek watershed.

(d) All commercial parking lots or other parking lots containing impervious cover of at least 5,000 square feet shall be vacuum swept at least three times a week on three separate non-consecutive days. Failure to do so will result in a fine of at least \$50.00 per day. The chief corporate officer of any corporate entity or the owner of any non-corporate entity shall be subject to this fine.

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Division 105 Technical Review

Sec. 105. 1 Water Quality Review Board

(a) An applicant may be permitted to use alternative control strategies in lieu of those required by this article only with the approval of the Water Quality Review Board as established by Sec. 41-105.1 of this Code. The Water Quality Review Board shall meet, hear the applicant, and rule on the appropriateness of the alternative control strategies within 30 days after the applicant has requested Board approval and submitted all necessary supporting data. The applicant shall have the burden of proof of the validity of all supporting data. The Board shall disapprove all alternative control strategies that are not proven to be equal to, or to exceed, the abilities of the control strategies required by this article to mitigate the pollution impacts of rainfall runoff. The applicant may resubmit strategies if the Board disapproves due to inadequate support data. Board approval of a new control strategy shall not constitute an addition to this article. Subsequent applicants desiring to use similar control strategies must prove the adequacy of such strategies for each particular site. The validity of the proposed alternative strategies must be certified by a registered Texas Professional Engineer with expertise in the area of concern, and must be capable of being enforced.

Division 106. Inspection, Enforcement and Maintenance

Sec - 106. 1 Inspection and Enforcement.

(a) Inspection - Any person who has filed a site development plan for approval pursuant to this article shall agree to allow entry on the land or premises which is the subject of such application for the purpose of inspection of conditions on the premises by duly authorized agents and employees of the City of Austin.

(b) Construction phase inspections - The City of Austin shall cause such inspections to be made of the land or premises during development and construction so as to assure full

compliance with all terms, conditions, requirements, and agreements to which the person obtaining approval of a plan under this article is found, whether such terms and conditions are required by this article, state law, or other ordinances and requirements of the City of Austin, including notes and covenants made a part of the plans, subdivision plat, or deeds.

Notice - The applicant shall designate one person or legal entity, with a current address, to which notice shall be given pursuant to this division.

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(d) Enforcement

(1) Administrative - When an appropriate Department Director of the City of Austin determines that there has been non-compliance with any material term, condition, requirement or agreement under this division, the person obtaining such approved Site Development Permit shall be ordered in writing to cease and desist from further development or construction material to the alleged non-compliance until corrected by compliance. Said person, may appeal an order to cease and desist to the appropriate Department Director by giving written notice. Said Director shall hear the appeal within three working days of receiving such notice. Said person may appeal in writing, a negative ruling by the Director to the Planning Commission which shall hear the appeal at the next regular meeting following receipt of the notice.

(2) Court - The City of Austin shall bring suit in a court of competent jurisdiction to restrain and enjoin any person who attempts to carry out any plan for development and construction without first obtaining approval of said plan as required by the law and ordinances of the City of Austin or any person who falls to cease and desist from further development or construction under (1) above.

(3) Any right, privilege or remedy granted by this section to the person obtaining or holding plat or plan approval shall also run in favor of such person's successors in interest and assigns. Any duty or obligation of or remedy against such person arising from this section shall also insure as to such person's successors in interest, assigns, agents, employees, representatives, or any person acting pursuant to the directions of any of the foregoing, or under color of the same.

Sec. 106.2 Maintenance Stage

All developments of land in the Aquifer-related Williamson Creek Watershed shall comply with the provisions of this section.

(a) All drainage facilities located in the street rights-of-way shall be maintained by the appropriate jurisdiction.

(b) All drainage facilities located on private property shall be maintained by the property owner.

All sedimentation and sedimentation/filtration facilities and their appurtenances required for commercial property shall be maintained by the property owner.

(d) The maintenance required above shall be to the standards and specifications contained in this article and other ordinances and reso-

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lutions of the City and shall retain the effectiveness of each design feature or part of a plat or plan governed by the provisions of this article.

(e) Duly authorized inspectors of the City shall have the right of entry on the land or premises where property owners are required to maintain drainage facilities or detention/filtration facilities, at reasonable times for the purpose of inspection of the maintenance required. The City Public Works Department shall inspect the premises of each such facility approved pursuant to this

Division at least once per year. Where non-compliance is found, the City shall request in writing that the property owner comply. This notice shall describe the measures required to be taken. If, within three months of the notice the maintenance required is not accomplished, the City shall either:

(1) Cause the necessary restoration to be accomplished and assess the property owner for the City's actual cost, or

(2) Bring an action for mandatory injunction to require the property owner to accomplish the necessary maintenance.

(f) All drainage easements across private property shall contain the necessary language to permit the required water flow, require the maintenance set out herein, and permit the necessary access by the City of Austin for inspection and maintenance. All these shall be properly noted in the Deed to the land.

(g) The required maintenance by private landowners and the power of the City in (e) above

shall be noted on the plan filed in the Deed Records of Travis County as a Deed Restriction.

Division 107 Variances

Sec. 107.1 Variances

(a) The Planning Commission may grant a variance from the terms of this Article only if an applicant requests in writing and the Commission finds that, because of special circumstances applicable to the property involved, a strict application deprives such property of privileges or safety enjoyed by other similarly situated property with similarly timed development. Where such conditions are found, the variance permitted shall be the minimum departure from the terms of this Article necessary to avoid such deprivation of privileges enjoyed by such other property to facilitate a reasonable use, and which will not create significant probabilities of harmful environmental consequences. The Planning Commission may not grant a variance if it would provide the applicant with any special privileges not enjoyed by

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other similarly situated property with similarly timed development, or if based on a special or unique condition which was created as a result of the method by which a person voluntarily subdivides land after the effective date of this ordinance.

(b) The Planning Commission may grant a variance from the terms of Section 103.3 when the development free zone constitutes a proportion of the land in the proposed plan making the requirement an unreasonable and unwarranted taking or an undue hardship. However, no such variance may be granted if the condition was created as a result of the method by which a person voluntarily subdivides land after the effective date of this ordinance. The granting or denial of this variance may be appealed to the City Council by any citizen.

The granting or denial of any variance may be appealed to the City Council by any citizen provided that the Council shall consider the appeal no later than the second regular Council meeting following the Planning Commission action.

(d) The Planning Commission shall prepare written findings of fact justifying its grant or denial of a variance under subsection (a).

Division 109. Signs for Notification

Sec. 109.1. Signs required for proposed permits

Within two days of the filing of any application for a site development permit, the City shall place signs on property under application for the purposes of advertising said permit. The signs shall meet the following requirements: each sign shall be no smaller than eighteen inches by thirty inches and shall include the words "Proposed Site Development Permit," plus such other information as may be determined necessary by the Director of Public Works. Signs placed on the property involved must be within ten feet of any property line paralleling any established or proposed street and must be visible from that street. All required signs shall remain on the property until final disposition of the permit request is determined.

Division 110. Issuance of Site Development Permit

Sec. 110.1 Automatic issuance of permit if not denied; reasons for denial required.

A site development permit not denied or disapproved by the Director of Public Works within twenty working days following the date of application therefor shall issue automatically to the applicant.

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If the Director of Public Works denies the permit or disapproves it pending receipt of additional information, he shall notify the applicant in writing via certified mail. His letter to the applicant shall be accompanied by a detailed statement of the reasons for such action, which reasons must be based on standards contained herein. The permit shall be effective ten days after issuance unless within that period an appeal is filed under Section 110.3.

Sec. 110.2 Aggrieved property owner may appeal denial of permit to the City Council.

If the site development permit is denied, the aggrieved property owner may appeal to the City Council by filing a written notice with the City Clerk. Said notice shall point out with specificity why, in the opinion of the aggrieved property owner, the denial was improper. The City Council shall set a date for a hearing upon such appeal within thirty days of the date of notice filing, and shall notify the property owner in writing of such hearing date. Upon a public hearing, the City Council may issue the permit if by a preponderance of competent technical evidence it finds that the Director of Public Works exceeded his discretion in denying same.

Sec. 110.3 Appeal of issuance of permit

Any owner of property in the City of Austin or in the Aquifer-related Williamson Creek

Watershed may appeal the issuance of a site development permit by the Director of Public Works on the basis that said permit will impair the water quality of the Edwards Aquifer, Williamson Creek or tributaries thereof. Such appeal must be made in writing to the City Clerk within ten days after the date of issuance. The City Council shall have fifteen working days from the date of filing in which to hold a public hearing to consider said appeal and must act to revoke said permit within that period. The appeal shall be denied unless the City Council finds by a preponderance of competent technical evidence that the permit in question would violate one or more provisions of this ordinance. Unless the appeal is allowed within fifteen days, the appeal shall be denied and the permit shall be effective on the fifteenth day.

Sec. 110.4 Permit Fees

Applications for permits required by the provisions of this chapter shall be accepted only upon payment of the appropriate fee as established by the City Council.

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Division 111. Penalty for Violations

Sec. 111.1 Penalty for violations

Any person violating any of the provisions of this Article and any person who does any act requiring a permit under the provisions hereof without a valid permit, and any person who fails or refuses to comply with any of the provisions hereof, shall be guilty of a misdemeanor and upon conviction shall be fined not less than twenty-five dollars nor more than two hundred dollars. Each day that such violation continues shall constitute a separate offense and be punishable as such.

PART 2. The need to protect the Edwards Aquifer, Barton Springs and Williamson Creek and its watershed from harm that can result from development activities creates an emergency; therefore, an emergency is hereby declared to exist; the rule requiring that ordinances be read on three (3) separate days is hereby suspended and this ordinance shall be effective immediately upon its passage and adoption as provided for in the Charter of the City of Austin.

PART 3. If any part of this article is found to be unconstitutional, unenforceable, or in violation of law, the remaining portions shall remain in effect and shall be construed so as to give effect to those portions held not to be in violation of law.

PASSED AND APPROVED

MARCH 19, 1981 _____

MAYOR

APPROVED: _____
CITY ATTORNEY

ATTEST: _____
CITY CLERK

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ORDINANCE NO. 810507-K

AN ORDINANCE ADDING DIVISION 108 AND SECTION 108.1 TO CHAPTER 29A, ARTICLE I OF THE AUSTIN CITY CODE OF 1967; PROVIDING FOR CONTRACTORS' PERMITS AS A CONDITION OF PERFORMING WORK ON SITE DEVELOPMENT RELATED FACILITIES IN THE AQUIFER-RELATED WILLIAMSON CREEK WATERSHED; PROVIDING FOR SEVERABILITY; SUSPENDING THE RULE REQUIRING THE READING OF ORDINANCES ON THREE SEPARATE DAYS; DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

PART 1. That a new Division 108 and Section 108.1 be and are hereby added to Article I of Chapter 29A of the Austin City Code of 1967 and. shall read as follows:

Division 108. Contractor's Permits

No person shall construct, reconstruct, alter, repair, remove, place, replace, pave, repave, surface, or resurface site development related facilities in a development approved pursuant to this article without first obtaining a valid contractors' permit approved and issued by the Director of Public Works.

- A. Such permit shall list the city permits and other related approvals required before a contractor may begin work. The permit shall also include the name and signature of the contractor's representative responsible for the project.
- B. No new permit shall be issued to any contractor who holds a suspended permit or has had a permit revoked within the preceding twelve (12) months; however, a contractor who has had a permit suspended or revoked may complete the work authorized by other previously issued construction permits so long as the work performed thereunder is in compliance.
- C. In the event that any contractor fails to comply with the terms of the permit, the approved construction plans on which the permit is based, or applicable ordinance requirements, said permit may be suspended and/or revoked by the Director of Public Works after the contractor has

been notified in writing of the specific act(s) and/or omission(s) constituting noncompliance and has been given a reasonable opportunity to correct the act(s) and/or omission(s) constituting noncompliance.

D. Enforcement of this provision shall be in conformance with the procedure of subsection 106.1.D.

PART 2. If any part of this article is found to be unconstitutional, unenforceable, or in violation of the law, the remaining portions shall remain in effect and shall be construed so as to give effect to those portions held not to be in violation of the law.